IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 20007 of 2003(F)

PETITIONERS:

1. **KANHIRAKADAVATH MUHAMMED S/O. SAIDALI HAJI, PULAMANTHONE AMSOM AND DESOM, P.O.PULAMANTHONE, PERINTHALMANNA TALUK.**
2. **KANHIRAKADAVATH MARIKKAR S/O. SAIDALI HAJI, PULAMANTHONE AMSOM AND DESOM, P.O.PULAMANTHONE, PERINTHALMANNA TALUK.**
3. **KANHIRAKADAVATH HYDERALI S/O. SAIDALI HAJI, PULAMANTHONE AMSOM AND DESOM, P.O.PULAMANTHONE, PERINTHALMANNA TALUK.**

BY ADV. SRI.A.P.CHANDRASEKHARAN
SMT.PRABHA R.MENON
SRI.M.KRISHNAKUMAR

RESPONDENTS:

1. **KANHIRAKADAVATH KUNHEEMA UMMA D/O. SAIDALI HAJI, PULAMANTHONE AMSOM AND DESOM, P.O.PULAMANTHONE, PERINTHALMANNA TALUK.**
2. **ABOOBACKER S/O. PALAKURUSSI CHEMBIL MUHAMMED, MECHANIC, PULAMANTHONE AMSOM AND DESOM, P.O.PULAMANTHONE, PERINTHALMANNA TALUK.**

BY ADV. SRI.K.M.SATHYANATHA MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, ALONG WITH WP(C) NO.20077/2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON IA. NO.6437/2003 IN WP(C) NO.20007/2003

DISMISSED

02.04.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE COMMISSIONERS INTERIM REPORT.

EXT.P2:- COPY OF THE ORDER D.T.9.6.03.

EXT.P3:- COPY OF THE IA. 689/03.

EXT.P4:- COPY OF THE COUNTER.

/TRUE COPY/

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KURIAN JOSEPH, J.

W.P.(C) Nos.20007 & 20077 of 2003

Dated 2nd April, 2007.

J U D G M E N T

Orders passed by the Subordinate Judge's Court, Manjeri in O.S.93/98 and O.S.315/95 respectively are under challenge in these writ petitions. The grievance of the petitioners is that the Advocate Commissioner did not get sufficient time to identify the property and submit the report, and hence the suits should not have been tried without the report of the Advocate Commissioner. The learned Sub Judge took the view that it was the look out of the plaintiff in case the property is not properly identified and that was not a cause of worry for the petitioners. After having heard the counsel for the petitioners, I am of the view that it is only in the interests of justice that the request of the Advocate Commissioner for the assistance of the Taluk Surveyor is granted, so that the property could be properly identified. Hence the writ petitions are disposed of setting aside the orders under challenge with a further direction to the Sub Court to direct the Advocate Commissioner to submit the report after the identification of the property with the assistance of the

Taluk Surveyor, within two months. Only thereafter, the suits shall be proceeded with.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.Nos.20007 & 20077 of 2003

J U D G M E N T

Dated 2nd April, 2007.